§ 17-0303. General powers and duties applicable to portions of this article.

1. The provisions of this section shall apply only to titles 1 to 11, inclusive, and title 19 of this article.

2. The department shall have administrative jurisdiction to abate and prevent the pollution of waters of the state in the manner herein provided in accordance with the classification of waters adopted by the department pursuant to section 17-0301 and in accordance with standards, criteria, limitations, rules and regulations and permit conditions adopted, promulgated or applied by the department pursuant to title 8 hereof.

3. The department, acting through the commissioner may, from time to time, adopt, amend, or cancel administrative rules and regulations governing the procedure to be followed with respect to hearing, filing of reports, the issuance of permits, and all other matters relating to procedure, and generally, may make such administrative rules and regulations, and do and perform any and all acts, not inconsistent with the provisions of this article listed in subdivision 1 of this section, as may be necessary or proper to carry into effect such provisions of this article listed in subdivision 1 of this section, and may make, amend and repeal rules and regulations for the storage of liquids likely to pollute the waters of the state including, but not limited to, standards for the construction, installation, maintenance, protection and diking of tanks used to store any such liquids and their associated structures, piping, valves, fittings, fixtures and outlets, in conjunction with the promulgation of which, the commissioner shall consider codes and practices of industries concerned with the handling and storage of such liquids and the time required for persons engaged in such industries to conform with such rules and regulations. Such rules and regulations, before becoming effective, shall be filed with the secretary of state for publication in the "Official Compilation of Codes, Rules and Regulations of the State of New York" published pursuant to section 120 of the Executive Law.

4. The commissioner is hereby authorized to:

a. Hold public hearings, receive pertinent and relevant proof from any party in interest who appears at such hearing, compel the attendance of witnesses, make findings of fact and determinations, and asssess such penalties therefor as are hereinafter prescribed, all with respect to the violations of the provisions of this article listed in subdivision 1 of this section, or the orders issued by the commissioner;

b. Make, modify or cancel orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state in accordance with the provisions of this article listed in subdivision 1 of this section, and specifying the conditions and time within which such discontinuance must be accomplished.

c. Institute or cause to be instituted in a court of competent jurisdiction proceedings to compel compliance with the provisions of this article listed in subdivision 1 of this section or the determinations and orders of the commissioner;

d. Issue or deny permits, under such conditions as may be prescribed for the prevention and abatement of pollution, for the discharge of sewage, industrial waste or other wastes, or for the installation or operation of disposal systems or parts thereof;

e. Continue any permit heretofore or hereafter issued under the provisions of this article listed in subdivision 1 of this section, or under the authority of laws previously enacted and thereafter repealed, whenever, after hearing thereon, the commissioner determines that such continuation is necessary or desirable to prevent or abate pollution of any waters of the state;

f. Revoke or modify any construction, operating or discharge permit heretofore or hereafter issued under the provisions of this article listed in subdivision 1 of this section, or under the authority of laws previously enacted and thereafter repealed, whenever, after hearing thereon, the commissioner determines that such revocation or

modification is necessary or desirable to prevent or abate pollution of any waters of the state provided, however, that the hearing required under this paragraph may be waived in writing by the applicant or permitees;

g. Conduct such investigations as may be deemed advisable and necessary to carry out the intents and purposes of the provisions of this article listed in subdivision 1 of this section;

h. Settle or compromise, with the approval of the attorney general, any action or cause of action for the recovery of a penalty under the provisions of this article listed in subdivision 1 of this section as he may deem advantageous to the state;

i. Perform such other and further acts as may be necessary, proper or desirable, to carry out effectively the duties and responsibilities prescribed in the provisions of this article listed in subdivision 1 of this section.

5. It shall be the duty and responsibility of the department to:

a. Encourage voluntary cooperation by all persons in preventing and abating pollution of the waters of the state;

b. Encourage the formulation and execution of plans by cooperative groups or associations of municipalities, industries, and other users of the waters who, severally or jointly, are or may be the source of pollution in the same waters, for the prevention and abatement of pollution;

c. Cooperate with the appropriate agencies of the United States or other states, or any interstate agencies in respect to pollution control matters, or for the formulation for submission to the legislature of interstate pollution control compacts or agreements;

d. Conduct or cause to be conducted studies and research, and provide services by itself or in cooperation with federal, interstate, state or

municipal agencies, with respect to pollution abatement or control problems, disposal systems, and treatment of sewage, industrial waste and other wastes, which shall include but not be limited to (1) advances in effectiveness and economies in waste water treatment and plant design and operation, (2) feasible and economical means for providing sewers and sewage treatment works for small communities, (3) economical means for future incorporation of separate sewer service units into area-wide systems, (4) studies of selected problems, such as industrial wastes and changing sewage characteristics, (5) development of a data processing system for periodic determination of the status of water pollution control throughout the state, (6) provision of advisory services for municipal officials in relation to sewage problems, including information material concerning planning, construction and operation, financial assistance programs and methods of defraying the costs of sewers and sewage treatment plants, and (7) assimilative capacities of streams, lakes and other waters of the state;

e. Prepare and develop a general comprehensive plan for the abatement of existing pollution and the prevention of new pollution, by the installation, use, and operation of practical and available systems, methods and means for controlling pollution, recognizing different requirements for separate waters and for different segments of the same waters;

f. Require to be submitted to it, and to consider for approval, plans for disposal systems or any part thereof, and to inspect the construction thereof for compliance with the approved plans;

g. Serve as an agency of the state for the receipt of moneys from the federal government, or other public or private agencies, and to expend the same, after appropriation therefor, for the purpose of pollution control, studies or research.

h. Establish a water quality surveillance network with sufficient stations and sampling schedule to meet the needs of the state, including ground water and surface water, both fresh and salt, and publish the results of such water quality surveillance network periodically;

i. Develop a public education and promotion program to aid and assist public officials in publicizing needs and securing support for pollution control action;

j. Prepare an annual report on the status of the water pollution control program, covering all phases of the program;

l. Promulgate rules, regulations and standards, subject to the requirements of subdivision 3 of section 17-0303, providing for the testing and measuring of sewage, industrial waste or other wastes, at their outlet or point source into waters of the state, and further providing for the maintaining of a permanent record of the resulting data, and periodically reporting such record to the commissioner, subject to the restriction set forth in subdivision 6 of section 17-0303.

6. The commissioner, or his authorized representative, shall have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution, or the possible pollution of any waters of the state, which inspection or examination does not involve confidential information relating to secret processes or economics of operation.

7. The commissioner, or his authorized representative may examine any records or memoranda pertaining to the operation of a disposal system or treatment works which examination does not involve confidential information relating to secret processes or to economics of operation.

8. The commissioner, or his or her authorized representative, shall disclose to the public the date, location and source of a petroleum spill, including, but not limited to, information pertaining to the cleanup of such spill and the presence of methyl tertiary butyl ether (MTBE). In the event of such spill, the department shall post such information on its website within a reasonable period of time, including additional related information as soon thereafter as it becomes available.